

San Francisco Bay Area Rapid Transit District

2150 Webster Street, P. O. Box 12688, Oakland, CA 94612-2688



BOARD OF DIRECTORS MINUTES OF THE 1,928TH MEETING THURSDAY, MARCH 9, 2023

Members of the Board of Directors

Janice Li, President (District 8)

Mark Foley, Vice President (District 2)

Debora Allen (District 1)

Rebecca Saltzman (District 3)

Robert Raburn (District 4)

John McPartland (District 5)

Elizabeth Ames (District 6)

Lateefah Simon (District 7)

Bevan Dufty (District 9)

MEETING DESCRIPTION

A Regular Meeting of the Board of Directors was held on March 9, 2023, convening at 1:00 p.m. in the BART Board Room, 2150 Webster Street, 1st Floor, Oakland, California. President Li presided, April B. A. Quintanilla, District Secretary.

1. CALL TO ORDER

President Li called the Meeting to order at 1:00 p.m.

A. Roll Call.

Directors Present in Oakland: Directors Ames, Foley, Saltzman, Simon, and Li.

Directors Present via Teleconference: Director Raburn.

Absent: Directors Dufty and McPartland. Director Allen entered the Meeting later.

B. Pledge of Allegiance. Vice President Foley led the Pledge of Allegiance.

C. Introduction of Special Guests. There were no special guests introduced.

2. CLOSED SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS:

Property: Property (air rights) located at Ashby BART Station, 3100 Adeline Street, Berkeley 94703. APNs 53-1597-39-04 and 53-1703-009-00.

District Negotiators: Val Menotti, Chief Planning and Development Officer; Abigail Thorne-Lyman, Director of Real Estate and Property Development; Deb Castles, Principal Property Development Officer; Carli Paine, Group Manager of Transit-Oriented Development; Darin Smith, Economic and Planning Systems.

Negotiating Parties: San Francisco Bay Area Rapid Transit District and City of Berkeley

Under Negotiation: Price and Terms

Government Code Section: 54956.8

B. PUBLIC EMPLOYMENT

Title: Inspector General

Government Code Section: 54957

President Li brought the item before the Board.

Public Comment

Aleta Dupree addressed the Board.

President Li announced that the Board would enter into Closed Session under Items 2-A (Conference with Real Property Negotiators) and 2-B (Public Employment) of the Regular Meeting agenda, and that the Board would reconvene in Open Session upon conclusion of the Closed Session.

The Board Meeting recessed at 1:06 p.m.

The Board reconvened in Closed Session at 1:09 p.m.

Directors Present in Oakland: Directors Ames, Foley, Saltzman, Simon, and Li.

Directors Present via Teleconference: Director Raburn.

Absent: Directors Dufty and McPartland. Director Allen entered the Meeting later.

Director Allen entered the Meeting in Oakland.

The Board Meeting recessed at approximately 2:55 p.m.

3. OPEN SESSION

The Board reconvened in Open Session at 3:02 p.m.

Directors Present in Oakland: Directors Allen, Ames, Foley, Saltzman, Simon, and Li.

Directors Present via Teleconference: Director Raburn.

Absent: Directors Dufty and McPartland.

A. Announcements from Closed Session, if any.

President Li announced that the Board had concluded its Closed Session under Items 2-A and 2-B and that there were no announcements to be made.

4. REPORT OF THE BOARD PRESIDENT

President Li presented the Report of the Board President, expressing appreciation and gratitude to the District Secretary, April Quintanilla, and Chief Communication Officer, Alicia Trost, for their efforts in updating the Board of Directors' web page with information on how the public can participate both virtually and/or in-person at Board Meetings. President Li highlighted the web page as a valuable resource containing meeting schedules and comprehensive instructions on accessing the Board room and related information.

President Li also addressed concerns related to areas in the BART District that are currently non-represented due to redistricting and expressed intent to discuss and agendize the matter for the March 23, 2023, Board Meeting to ensure constituents in all areas that comprise the BART District are duly represented.

President Li acknowledged the upcoming departure of Harriet Richardson, Inspector General; expressed appreciation and gratitude for Inspector General Richardson's service as BART's first Inspector General; and provided highlights of Inspector General Richardson's work and achievements.

Discussion

The item was discussed, with the following highlights:

Director Simon expressed appreciation to President Li for addressing the complex question of representation and acknowledged that disenfranchisement is a challenging conversation. Director Simon expressed hope that the ongoing process would result in a clear direction for the next ten years; emphasized the importance of constituents, elected officials, and business owners knowing who represents them; and noted the confusion among constituents and the need to rectify the situation, particularly in districts lacking representation, to ensure access to decision-makers and address transportation needs.

President Li indicated that a permanent Board policy would resolve the issues of exclusion and disenfranchisement related to lack of representation following redistricting. President Li also requested that staff establish a redistricting policy as a permanent Board policy, ensuring its application in future redistricting periods beyond the current situation, and engage constituents, community stakeholders, local jurisdictions, and elected officials in developing the policy and subsequently communicating its implementation, if passed.

Vice President Foley thanked Inspector General Richardson for her initiative in establishing BART's first Office of Inspector General, acknowledging the challenges associated with establishing a new office, and noting that Inspector General Richardson's open and honest communication as well as her oversight and diligence in identifying fraud, waste, and abuse contributed to the improvement of BART.

5. BOARD COMMITTEE REPORTS

President Li called for Board Committee Reports.

Vice President Foley, Vice Chairperson of the Audit Committee, provided a summary of the February 14, 2023, Audit Committee meeting, noting that the Committee received a presentation on the Fiscal Year 2023 First Quarter Financial Report, a presentation and live demonstration of the availability of internal audit information and related documents on bart.gov, a presentation of the Office of the Inspector General's Activities Report for the period of October 2022 through December 2022, and a presentation of six investigations conducted by the Office of the Inspector General.

Public Comment

Aleta Dupree addressed the Board.

6. CONSENT CALENDAR

President Li brought the following Consent Calendar items before the Board and requested that Item 6-D, Grant of Roadway Easements to the Cities of South San Francisco and San Bruno for Intersection Improvements by Lane Partners, be removed from the Consent Calendar:

- A. Approval of the Minutes of the Meeting of December 15, 2022.
- B. Amendment of Legal Services Agreement with Hanson Bridgett.
- C. Approval of BART's Updated Public Transportation Agency Safety Plan (PTASP).
- D. Grant of Roadway Easements to the Cities of South San Francisco and San Bruno for Intersection Improvements by Lane Partners.

Action

Vice President Foley moved to approve Consent Calendar Items 6-A, 6-B, and 6-C by one motion. Director Saltzman seconded the motion, which carried by unanimous roll call vote and resulted in the actions outlined below.

Vote Summary:

Moved / Seconded: Vice President Foley / Director Saltzman

Aye: Directors Allen, Ames, Foley, Raburn, Saltzman, Simon, and Li.

No: 0.

Abstain: 0.

Absent: Directors Dufty and McPartland.

Result: 7-0, motion carried by unanimous roll call vote.

- A. The Minutes of the Meeting of December 15, 2022, were approved. *(Vote: 7-0)*
- B. The General Counsel was authorized to continue to utilize Hanson Bridgett for representation in litigation related to the District's advertising content guidelines. *(Vote: 7-0)*
- C. The Board approved and adopted the BART Public Transportation Agency Safety Plan, Revision 3, dated January 1, 2023. *(Vote: 7-0)*

President Li brought Item 6-D, Grant of Roadway Easements to the Cities of South San Francisco and San Bruno for Intersection Improvements by Lane Partners before the Board and noted that she would abstain from voting on the item.

Public Comment

No comments were received.

Action

Upon motion by Vice President Foley and second by Director Raburn, the General Manager or his designee, the Director of Real Estate and Property Development, was authorized to enter into Agreements of Purchase with Lane Partners for the sale of a 15,125 square foot roadway easement area on a portion of BART Parcel Numbers D-3110-1, D-3153-1, D-3492-1A, and D-3496-1A for conveyance to the Cities of South San Francisco and San Bruno, by unanimous roll call vote. (*Vote: 6-0-1*)

Vote Summary:

Moved / Seconded: Vice President Foley / Director Raburn

Aye: Directors Allen, Ames, Foley, Raburn, Saltzman, and Simon.

No: 0.

Abstain: President Li.

Absent: Directors Duffy and McPartland.

Result: 6-0-1, motion carried by unanimous roll call vote.

7. **GENERAL MANAGER'S REPORT**

- A. Report of Activities, including Updates of Operational, Administrative, and Roll Call for Introductions Items.

Michael Jones, Deputy General Manager, reported on Town Hall forums for riders who are blind, low-vision, deaf, and hard-of-hearing as well as riders with mobility challenges; Transit Worker Appreciation Day; BART receipt of two first-place awards from the American Public Transportation Association (APTA); the selection of nine BART employees to participate in the mid-manager program; the BART St. Patrick's Day Parade in San Francisco; and ridership for the month of February.

Public Comment

No comments were received.

Discussion

There was no discussion.

8. **PUBLIC COMMENT**

President Li called for general Public Comment, an opportunity for members of the public to address the Board of Directors on matters under their jurisdiction and not on the agenda.

The following individuals address the Board:

David Boyd
Aleta Dupree
Marc Joffe
Andrew
Todd Andrew
Gerald Cauthen
Amy Thompson

9. **ADMINISTRATION ITEMS**

Director Dufty, Chairperson

Director Raburn, Vice Chairperson of the Administration Committee, had no report and no items were presented.

10. **ENGINEERING AND OPERATIONS ITEMS**

Director Foley, Chairperson

Vice President Foley, Chairperson of the Engineering and Operations Committee, had no report and no items were presented.

11. **PLANNING, PUBLIC AFFAIRS, ACCESS, AND LEGISLATION ITEMS**

Director Saltzman, Chairperson

A. Transit-Oriented Development Program Update.

Director Saltzman, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the item before the Board.

Abigail Thorne-Lyman, Director of Real Estate and Property Development, and Carli Paine, Group Manager, Transit-Oriented Development, presented the item.

Director Saltzman thanked the presenters for their informative report; expressed support for the transit-oriented development (TOD) program; commended the progress made; and encouraged further collaboration and engagement with the community.

Director Saltzman recognized the presence of two local elected officials, the City of El Cerrito Mayor, Lisa Motoyama, and City of El Cerrito Councilmember, Paul Fadelli.

Mayor Motoyama expressed gratitude on behalf of the City of El Cerrito for the partnership with BART on the El Cerrito Plaza development and the work at Del Norte BART Station. Mayor Motoyama also highlighted the importance of TOD in maintaining diverse and vibrant communities.

Public Comment

The following individuals addressed the Board:

Jonathon Kass
Bryan Culbertson
Aleta Dupree
Raul Maldonado
Amiel Atanacio

Discussion

The item was discussed, with the following highlights:

President Li commended staff for providing an update on the TOD program; expressed appreciation for the comprehensive overview; and highlighted the significant financial benefits the TOD program has brought to BART, such as securing millions of dollars for railcars and fare gates.

Director Allen thanked staff for the presentation; requested clarification on the projected revenue from existing TOD projects and the program's impact on the operating budget; and noted that, considering the fiscal challenges, BART should be selective in pursuing projects that produce long-term revenue and reconsider projects with limited financial benefits.

Director Raburn underscored the long-term gains of TOD for BART and the region and the importance of increasing ridership and enhancing land values around BART stations; expressed disagreement with the notion that TOD is an unwise initiative; and highlighted the positive impact of TOD projects on ridership growth and value creation.

Director Ames thanked staff for their efforts; highlighted the significance of employment centers in TOD projects with metrics related to job creation and employment centers to create sustainable communities and reduce vehicle miles traveled; commented on the need for a balanced mix of jobs, housing, and retail; and emphasized the importance of access to grocery stores and the need for holistic planning in creating vibrant communities.

Director Saltzman thanked all the Board Members for their comments; acknowledged the significant work of the TOD team and praised the achievements of the program as well as the ambitious targets set by BART and the potential to surpass them; emphasized the importance of revenue from ridership; recognized the financial and regional benefits of TOD, including the positive impact on addressing the housing crisis and homelessness; and expressed confidence in the TOD program's future success and commitment to its continuation.

Action

No Board action was taken, as the item was presented for information only.

B. Senate Bill 827 (Glazer) - BART Office of the Inspector General.

Director Saltzman brought the item before the Board.

Rodd Lee, Assistant General Manager, External Affairs; Amanda Cruz, Director of Government and Community Relations; and Inspector General Richardson, presented the item.

Public Comment

Aleta Dupree addressed the Board.

Discussion

The item was discussed, with the following highlights:

Director Simon inquired about the implications of search and seizure, due process, and access to staff and private space, the civil or criminal penalties associated with the obstruction narrative, how the legislation suggests imprisonment, and whether the legislation proposed a violation of the civil or criminal penal code.

President Li provided updates on a prior meeting with Senator Steve Glazer and emphasized that the conversation with Senator Glazer was positive, including a discussion of BART's acceptance of the Inspector General's recommendations, and the importance of independent oversight; expressed opposition to creating more misdemeanor offenses; and indicated a desire to learn more about the history and outcomes of similar provisions within the California Department of Transportation (Caltrans) and other agencies, such as the Los Angeles County Metropolitan Transportation Authority (LA Metro).

Director Simon exited the Meeting.

Director Allen commented on her prior inquiry to staff regarding Labor's perspective of the Bill and staff's response that Labor would discuss the Bill and have an opportunity to express their concerns with the Bill's provisions. Director Allen further noted knowing Labor's perspective of the Bill would be helpful because a Labor issue was the sole reason why the Bill was previously vetoed by the Governor.

Director Ames expressed frustration and disheartenment upon learning about the Inspector General's upcoming departure and emphasized the lack of concrete action and funding commitments in the budget for the Office of the Inspector General (OIG), indicating that allocating additional funding to the OIG would help build trust within the community and address the backlog of issues.

Vice President Foley expressed concern about the inclusion of criminalization in the Bill and questioned the reasoning behind the inclusion; emphasized the importance of the OIG engaging Labor and collaborating on acceptable language, indicating that addressing concerns through an OIG Charter might be a potential solution. Vice President Foley also expressed support for the Bill's conceptual goals but indicated doubt about the Bill's effectiveness.

President Li expressed intent to engage regularly and often with Senator Glazer's office to discuss concerns raised during the Meeting.

Director Saltzman acknowledged the efforts to expedite discussions and meet with Senator Glazer's office and highlighted the need for more clarity and funding while recognizing that the initial legislation had limitations. Director Saltzman also expressed appreciation for the commitment to address concerns and support for developing a Charter for the OIG and encouraged Board Members to continue working towards finding a solution to the challenges faced by the OIG.

Action

No Board action was taken, as the item was presented for information only.

12. **BOARD MATTERS**

- A. Board Member Reports.
- B. Roll Call for Introductions.
- C. In Memoriam Requests.

President Li called for Items 11-A, Board Member Reports; 11-B, Roll Call for Introductions; and 11-C, In Memoriam.

Director Raburn reported that he had attended an event in El Cerrito to pay respect to Janet Abelson, a valued community member who had served on the BART Accessibility Task Force, Transit Advisory Committee, and the Service Review Advisory Committee for East Bay Paratransit. Director Raburn also expressed gratitude to Henry Symons, Principal Government and Community Relations Representative, for attending the memorial event for Janet Abelson and reported that he had attended the Link21 Equity Advisory Committee meeting.

Director Ames reported that she had attended the California Special Districts Association's event honoring Congressman Ro Khanna as Legislator of the Year. Director Ames also reported that she had attended the Alameda County Mayors' Conference in Newark and expressed gratitude to Amanda Cruz, Director of Government and Community Relations, for accompanying her to the event.

Vice President Foley reported that he had attended the BART Citizen Oversight Model Public Outreach Meeting and the Contra Costa County Mayors' Conference. Vice President Foley also provided an update on the C-15 Interlocking Project and thanked Principal Government and Community Relations Representative Symons and Kerry Hillis, Principal Government and Community Relations Representative, for their support.

Shane Edwards, Assistant General Manager, Operations, provided an In Memoriam tribute to John Matthews, Assistant Superintendent of Capital Construction and respected member of the Operations team. Assistant General Manager Edwards described John as a consummate professional and expressed condolences to his family, friends, and colleagues.

Public Comment

William Lin addressed the Board.

ADJOURNMENT

The Meeting adjourned at 5:19 p.m. in honor of John Matthews.

April B. A. Quintanilla
District Secretary